

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 26337 OF 2005

DATED: 14.9.2006

Between:

Friends Association Club

... Petitioner

and

The Superintendent of Police,
Machilipatnam and others

...

Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.26337 OF 2005

ORAL ORDER:

The petitioner is a club. Its grievance is that the respondents-police, in particular the respondents 3 and 4, are visiting the club regularly, at irregular hours, without proper notice and are constantly meddling and interfering with the gathering of members of the club, threatening and intimidating the members of the petitioner's club besides pressuring them to close down the club and are frequently summoning the governing body members of the club to the police station without notice and without just cause and are lodging false cases against the members of the club. They seek appropriate relief for the above package of grievances.

Earlier, the petitioner filed W.P.No.35147 of 1998 with a similar grievance. This writ petition was disposed of at the stage of admission with a direction to the respondents therein not to interfere with the lawful activities of the club, but with a caveat that if any activity contrary to the A.P. Gaming Act (for short 'the Act')

is conducted in the club premises, it is open to the authorities to take appropriate action in accordance with law.

Alleging wanton disobedience of the orders in the aforesaid writ petition, the petitioner filed C.C.No.1545 of 2000. Admittedly, the Contempt Case was dismissed on consideration of the pleadings in the counter by the respondents-police to the effect that the members of the club were indulging in playing games of chance with money and that on 10.8.2000 when the club was raided, it was seen that the members were playing card games with money and an amount of Rs.5,600/- was also recovered and a criminal case filed. The petitioner contends that as all the accused were acquitted in the criminal case, the raid itself was unjustified and in transgression of the procedural requirements antecedent to a raid. Even thereafter and currently (as on the date of the filing of the writ petition), the respondents-police are regularly visiting the club; interfering with their lawful activities, intimidating the members and coercing them to close down the club, is the regnant complaint.

The 4th respondent has filed a counter affidavit in January 2006 asserting that after the earlier raid on 10.8.2000 and the institution of a criminal case in Cr.No.101 of 2000 under Sections 3 and 4 of the Act, the club did not function. The building was kept vacant for some time and later several persons pursued other businesses including a lodge, fruit business and the like at

different periods of time. The answering respondent states that enquiries were conducted with the neighbours of the club premises and they had stated that there was no club functioning in the name and style of petitioner-club, in the premises. All the other allegations regarding false propaganda by the respondents and attempts to defame the members of the petitioner-club have been categorically and unequivocally denied. The respondents-police deny illegal interference with the lawful activities of the club. It is also asserted that since the year 2000 after Cr.No.101 of 2000, no case was registered by the respondents against the petitioner-club, as there was no activity whatsoever.

The petitioner has not filed any pleading in rebuttal of the averments in the counter affidavit. Along with the writ petition, no material is filed in substantiation of its assertions. This is thus a case of a mere assertion and denial. This court is not in a position to evaluate rival pleadings without any evidence aliunde. If the petitioner has a grievance as to procedural or substantive transgression by the police in executing law and order obligations, the petitioner has a plenitude of statutory remedies before the jurisdictional courts; criminal or civil as the case may be, for appropriate reliefs, for malicious prosecution or injunction. The writ petition does not appear to be appropriate remedy in the context of the pleadings on record.

The writ petition is accordingly dismissed. The petitioner is at liberty to pursue appropriate statutory remedies in case of any

subsisting or future grievance. No costs.

Date: 14.9.2006
CVM

GODA RAGHURAM, J